

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Omaha District  
**FILE NUMBER:** 200460556

**REGULATORY PROJECT MANAGER:** May **Date:** 16 Aug 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office Y (Y/N) **Date:** 16 Aug 2004  
 At the project site N (Y/N) **Date:**

**PROJECT LOCATION INFORMATION:**

**State:** North Dakota  
**County:** Adams County  
**Center coordinates of site by latitude & longitudinal coordinates:** Lat 46-52-14.1580  
 Lon 102-07-45.3647  
**Approximate size of site/property (including uplands & in acres):** 50 acres  
**Name of waterway or watershed:** Cedar watershed

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole						1 ea			
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									
_____									
_____									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?				x	
Is used to irrigate crops sold in interstate commerce?		x			

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary \_\_ Or Approved \_x\_.

**ADDITIONAL INFORMATION SUPPORTING NJD** (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

Based on the information provided by the NDDOT, wetland impacts are within the road right of way. To flatten the inslope NDDOT estimates impacts at 0.66 acres of an isolated wetland that is approximately 50 acres. This area appears to be a small closed basin. This basin appears to be isolated, intrastate and non-navigable and is considered not jurisdictional based on the SWANCC ruling.